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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,695	12/20/2001	James Loik	JL-00017-US (PAR)	4192

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PERMAN & GREEN  
425 POST ROAD  
FAIRFIELD, CT 06824

EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/027,695

Applicant(s)

LOIK, JAMES

Examiner

Isaac N Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-12,14,15,17-22,24,39,40,42-45,47 and 58-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-12,14,15,17-22,24,39,40,42-45,47 and 58-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Cancellation of claims 3-6, 13, 16, 23, 25-38, 41, 46, 48-57 is acknowledged.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: direction 398 on page 16, end of first paragraph. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the stop in claim 21, line 1, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

3. Objections to the claims are hereby withdrawn.

#### ***Claim Rejections - 35 USC § 102***

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 10, 11, 12, 15, 20, 21, 22, 39, 40, 45 and 58-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Cutlan (403,521). Cutlan discloses housing a, b, c, e, f; handles b, c imply that the tool is sized and shaped to be handheld; cutting guide m, f, e; cutting edge l; hollow cutting straw having centerline n; spiral cut o; angle in figure 2 juxtaposed housing a and straw n; secondary component g in column 1, lines 26-36; note opening juxtaposed between guides m and g; stop h; tapered portion t and s in column 2, lines 89-99. The cutting guide m, f, e guide the tool about the circumference of the straw, and secondary component guides the tool along the axis of the straw. The housing being a molding does not effect the structure of the apparatus and only implies the method through which the apparatus was formed, and therefore does not limit the structure. All the pieces of the apparatus are connected and are of unitary construction. The cutting edge l is located in the housing as seen in figure 1.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 7, 8, 17, 18, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutlan in view of Sauer (4,548,114). Cutlan discloses everything as noted above, but does not disclose a trimming edge to cut a notch in a straw and does not teach a trimming edge to cut the straw axially. However, Sauer teaches trimming edge to cut a notch in a straw 49 and teaches trimming edge to cut the straw axially 48. It would have been obvious to provide a trimming edge to cut a notch in a straw and a trimming edge to cut the straw axially in Cutlan as taught by Sauer in order to manipulate the straw in Cutlan in several different ways.

8. Claims 9, 19 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutlan in view of Dackow (3,595,107). Cutlan discloses everything as noted above, but does not disclose a rounding mandrel. However, Dackow teaches rounding mandrel A. It would have been obvious to provide a rounding mandrel in Cutlan in view of Dackow in order to provide a tapered section on the end of a straw.

9. Claims 14, 24 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutlan in view of Hicks (5,412,902). Cutlan discloses everything as noted above, but does not disclose a drinking straw. Hicks discloses a drinking straw in column 1, line 54. It would have been obvious to provide a drinking straw in Cutlan as taught by Hicks in order to make fishing lures.

### ***Response to Arguments***

Applicant's arguments filed 10-14-2003 have been fully considered but they are not persuasive. Applicant asserts that the apparatus cannot be used with a drinking straw. It is believed that the apparatus can be used with a drinking straw because the shapes are equivalent.

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Although the straw is more flimsy than a wooden dowel, a straw is capable of being cut in the same manner. It is also to be noted that there are straws that are made of rigid plastic. Applicant asserts that the apparatus in Cutlan does not support the straw. It is believed that elements i, g and m provide sufficient support for the straw, and are capable of preventing the straw from collapsing. Applicant asserts that the cutting guide does not substantially surround the straw. It is believed that cutting guide m, f, e surrounds the straw in excess of 180 degrees, which means that the cutting guide is substantially surrounding the straw. Applicant asserts that the apparatus is not sized and shaped for being handheld. It is believed that since the apparatus is formed with handles b and c, that it is sized and shaped for being handheld. Handles imply that it is handheld. Applicant asserts that guide m and guide g guide the tool in the same direction. It is believed that the guide m guides the tool about the circumference of the straw, and that the guide g guides the straw along its axis. Applicant asserts that Curtan doesn't disclose that guide m guiding the hollow straw during insertion to the cutting edge. However, it is believed that guide m is capable of guiding the straw during insertion to the cutting edge. The apparatus is capable of receiving the straw from the left side in figure 2 by rotating the straw in the opposite direction, and therefore the guide m would be in contact with the straw during insertion to the cutting edge.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 703-305-4949. The examiner can normally be reached on Monday thru Friday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

JH

IH

December 23, 2003

  
BOYER ASHLEY  
PRIMARY EXAMINER